

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. Applicant respectfully requests reconsideration and allowance of the claims in light of the following remarks.

In the Official action dated September 1, 2005, the Examiner rejected claims 1-7 and 9-19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,692,902 to Aeby in view of U.S. Patent No. 6,315,558 to Farzin-Nia et al. The Examiner further rejected claims 8 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Aeby in view of Franzin-Nia et al., as applied to claims 1 and 2 above, and further in view of U.S. Patent No. 5,836,764 to Buchanan. Applicant continues to respectfully traverse these rejections for the reasons set forth by the Applicant in the amendment dated July 14, 2005.

In a telephone conversation initiated by Stephen S. Wentsler with Examiner John J. Wilson on October 18, 2005, Applicant's representative requested the Examiner to consider that Aeby teaches away from the combination proposed by the Examiner. The Examiner stated that he would consider such arguments when submitted as an amendment after final.

In the Official action dated September 1, 2005, the Examiner responded to the Applicant's arguments submitted with the previous amendment dated July 14, 2005. Specifically, the Examiner stated that Aeby shows using convex surfaces between edges but shows three or four edges instead of two. The Examiner further stated that Franzin-Nia teaches it is known in the art to include embodiments with two edges, the suggestion coming from the same art. Even if Franzin-Nia discloses two edges as suggested by the Examiner, Aeby teaches away from providing less than three cutting edges. Indeed, Aeby states that the tapered portion has "a normal section which is polygonal". (See Column 2, lines 17-18). See also column 4, lines 9-12 that states "[t]he section of the central part of the instruments of the set could be different from a square or from a triangle as disclosed and represented, while

remaining polygonal." (emphasis added). Therefore, instruments provided in accordance with the teachings of Aeby require polygonal cross sections. Indeed, Aeby provides three or four cutting edges that are always in contact with the root channel to provide the root channel instrument with a self-centering function. Providing Aeby with only two cutting edges as proposed by the Examiner is contrary to the suggestions of Aeby and would necessarily destroy the self-centering function provided by the three or four cutting edges disclosed by Aeby. Accordingly, as Aeby teaches away from the proposed combination and since the proposed combination would necessarily destroy the self-centering function of the root canal instrument of Aeby, Applicant respectfully requests withdrawal of the corresponding rejections of the claims.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 35917.

Respectfully submitted,

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